

VERMONT TOBACCO EVALUATION AND REVIEW BOARD

Enforcement Committee

Thursday April 9, 2015

10:00 a.m. – 11:30 a.m.

Office of the Attorney General

Minutes

Members present: Bill Goggins (DLC), Commissioner Mike Hogan (DLC), Sarah Wylie (VDH), Helen Wagner (AGO), Rhonda Williams (VDH)

Public present: Nancy Remsen (Seven Days)

Public Comment

None

Agency Updates

Office of the Attorney General

- The annual certification of tobacco product manufacturers who sell cigarettes and roll-your-own tobacco in Vermont is underway. Certification documents are due by April 30th.
- RJ Reynolds and Lorillard are planning to merge. The merger requires FTC approval and contemplates the sale of certain brands to another manufacturer, ITG Brands. ATF and Vermont Department of Public Safety, Fire Safe division approval is required for packaging issues. The existing manufacturers will certify as separate entities and then recertify if the merger is approved later this year.
- The AGO continues to monitor licensed wholesale dealers regarding their sales of NPM product, conducting both desk and on-site audits.
- The AGO is working with VDH on consumer assistance program complaints regarding aspects of electronic cigarette marketing.
- There was a recent distribution of cigarettes not legal for sale in Vermont, a possible violation of the Directory statute and the Consumer Protection Act. The AGO is working with DLC to recover any product still in Vermont and is communicating with counsel for the distributor.
- The Vermont Grocers Association, at the request of the AGO, has added a link to their retailer website directing users to the list of cigarettes and roll-your-own tobacco that are legal for sale in Vermont. DLC will add the same link to their website.

Department of Liquor Control

- Tobacco licensee youth sales compliance rates remain around 90%.
- Under the FDA inspections, there have been no Vermont advertising and labeling violations found. Much of what is illegal federally has long been illegal in Vermont.
- DLC is getting ready for the FDA contract renewal submission. The new contract focuses 75% of enforcement efforts on underage buy tests.
- DLC is receiving an average of 30 new tobacco license applications monthly.

- There appears to be a trend of chains buying up independent stores.
- Licensee training occurs through in-person seminars throughout the state as well as on-line. All new applicants receive information regarding training. Investigators covering the area also provide training information and the schedule to retailers. DLC works to immerse new licensees as soon as they are licensed with training opportunities.
- The group inquired whether there were more “vape shops” requesting licenses. There is currently no data available on this.
- DLC will likely continue to pursue the separation of the tobacco/alcohol license in the next legislative session. There is much model licensing information available from other states.
- DLC is in the process of revising its licensing database. There was discussion of designing the new licensing application to collect additional data.
- The AGO reported that there were a number of warning letters issued to VT retailers by the FDA. Each FDA inspection’s results are used by DLC for state compliance purposes.

Department of Health

- Counter Balance results presentation (Sarah Wylie, VDH)
There were 18 audit districts with a team lead in each. Between 19 and 116 retailers in each audit district were audited. In all, VDH, 930 stores were visited and 750 stores were audited. Findings include:
 - Most retailers are convenience stores.
 - More than 90% of tobacco retailers also have an alcohol license (no addition license charge).
 - There were very few vape shops in the sample
 - Tobacco advertising is prevalent and visible in most stores.
 - Most retailers are keeping tobacco off counters, with the exception of electronic cigarettes.
 - The majority of retailers offer discounts. Some products are more discounted in rural areas. More discounts are offered among retailers located near schools.
 - Pharmacies are least likely to have exterior ads, but most likely to have discounts and the largest display footage. Some local chains (e.g.: Rite Aid, Kinney) are choosing not to sell tobacco products, but there is no indication of intention from the corporate level to follow CVS in discontinuing tobacco sales.
- The goal is to repeat audits in another 18 months (a two-year data collection cycle).
- DLC urged VDH to have coalition members communicate violations they observe to DLC.
- Next phase of Counter Balance work:
 - VDH is finalizing data and tool kits.
 - All data will become public via a press event the week of May 18. The exact date and location have yet to be determined. The Coalition for a Tobacco Free Vermont will be the primary spokesperson at this event.
 - VDH is customizing toolkits for local communities.
 - VDH Coalitions are being trained in using and communicating the data collected.

Electronic Cigarettes and Youth Compliance Checks Discussion

- Commissioner Hogan indicated that he would consider conducting a pilot project to include vaping products in youth compliance checks. Such a pilot would not necessarily require DLC Board approval.
- Sarah Wiley indicated that there may be some federal SAMHSA resources available for such a project. If any guidance is provided she will share it with the committee.
- The FDA deeming regulations may go into effect this summer. If the FDA begins to regulate all products derived from tobacco (including vaping products), the regulatory landscape will change.
- The Adult Tobacco Survey will include data on the prevalence of electronic cigarette usage by young adults. The survey results will be coming out soon; they are published every other year and are a representative sample.
- The Vermont Youth Risk Behavior Survey (YRBS) has an e-cigarette question for first time this year. Data will be available in the fall of 2015.

Other Discussion Items

- DLC retailer training could include information about vaping devices, that they aren't approved cessation devices.
- VDH is also communicating that message through the Vermont Pharmacists Association.
- Jim Harrison of the Vermont Retail & Grocers Association will be invited to the next meeting.

Legislative Initiatives:

Committee members were asked to think about any upcoming legislative initiatives from their departments. If DLC determines that it will be seeking legislation which separates the tobacco and alcohol license, this should be brought to the Enforcement Committee for possible recommendation to the VTERB. Rhonda Williams of VDH indicated that VDH may want to include pack size requirements as a potential piece of legislation. Factors that might be considered would include interstate commerce issues and how pack size has been addressed in other states model legislation, legal challenges).

Next meeting to be scheduled